HONG SIEW SIN & ANOR.

v.

MENTERI HAL EHWAL DALAM NEGERI, MALAYSIA & ANOR.

SUPREME COURT, KUALA LUMPUR
HASHIM YEOP SANI CJ (MALAYA)
MOHD. YUSOFF MOHAMED SCJ
GUNN CHIT TUAN SCJ
[CRIMINAL APPEAL NO. 05-128-89 & 05-129-89]
16 FEBRUARY 1990

CRIMINAL PROCEDURE: *Section 11A Dangerous Drugs (Special Preventive Measures) Act 1985 - Interpretation - Whether extension of detention orders invalid.*

The issue before the Court from both appeals was whether the orders which extended the detention of the appellants, under s. 11A of the Dangerous Drugs (Special Preventive Measures) Act 1985, were invalid because the dates referred to in the orders as to the commencement date coincide with the last dates of the first detention orders. Counsel for the appellants submitted that the overlap in the said dates amounted to a double detention.

Held:

[1] Section 11A of the Act states that the extension orders must commence "immediately upon the expiration" of the current order and in this instance, both the extension orders reproduced the effect of s. 11A in Bahasa Malaysia using the words "mulai dari tamat tempoh perintah tahanan itu". Taken as a whole the extension orders have substantially complied with s. 11A of the Act.

[2] Though the learned trial Judge was right in applying the *maxim de minimis non curat lex*, the extension order should be read as a whole and the words specifying the dates referred to earlier should be ignored as either a genuine mistake or a trifling irregularity or as being simply superfluous.

[Appeals dismissed.]

Cases referred to:
Makhan Singh v. State of Punjab [1964] (2) Cri LJ 217
Greene v. Secretary of State for Home Affairs [1942] AC 284

Legislation referred to:
Dangerous Drugs Act (Special Preventive Measures) 1985, ss. 6(1), 11A, (1)

For the appellants - Karpal Singh; M/s. Karpal Singh & Co.
For the respondents - Balia Yusof bin Wahi; Senior Federal Counsel

JUDGMENT

Hashim Yeop Sani CJ:

Both these appeals were concerned with only one crucial issue. That issue is whether the orders which extended the detention of the appellants under s. 11A of the Dangerous Drugs (Special Preventive Measures) Act 1985 (the Act) are invalid because the dates referred to in the orders as the commencement dates coincide with the last dates of the first detention orders. According to Encik Karpal Singh, Counsel for the appellants, this irregularity amounted to double detention, citing *Makhan Singh v. State of Punjab* [1964] (2) Cri LJ 217.

According to s. 11A(1) of the Act the Minister may at any time before the expiration of the duration of a detention order under s. 6(1) of the Act direct that the duration of the order be extended for a period not exceeding two years commencing immediately upon the expiration of the current detention order. It is clear from the language of that section that the extension order under that section must commence immediately upon the expiration of the period of the current order.

Both the extension orders we are concerned with in the appeals in effect reproduced the language of s. 11A(1) of the Act. In Bahasa Malaysia each of the extension orders reads as regard to period of extension as follows: "selama tempoh dua (2) tahun selanjutnya mulai dari tarikh tamat tempoh Perintah Tahanan itu". However immediately after those words on the commencement there appeared the words "iaitu dari 4hb Mei 1989" (in the case of Criminal Appeal No. 05-128-89 and "iaitu dari 13hb Mei 1989" (in the case of Criminal Appeal No. 05-129-89).

The dates referred to in both the orders were actually the dates of the expiry of the current detention orders. At the stroke of midnight on 4 May 1989 (in the case of Criminal Appeal No. 05-128-89 and 13 May 1989 (in the case of Criminal Appeal No. 05-129-89) the period of the current detention orders ended and the period of the extension orders commenced.

Taken as a whole our view is that the extension orders have in fact substantially complied with s. 11A of the Act. The additional words referred to specifying the dates cannot be regarded as rendering the extension orders invalid.

The learned Judge was quite correct in applying the *maxim de minimis non curat lex* (the Court should not deal in trivialities). Looking at the problem in another way it is not so much the application of the *de minimis* rule but that the extension orders in question should be read as a whole and the words specifying the dates referred to earlier should be ignored either as a genuine mistake or a miscalculation of the dates or a trifling irregularity or simply superfluous - see also *Greene v. Secretary of State for Home Affairs* [1942] AC 284 at pp. 298-300.

The appeals were accordingly dismissed.

Also found at [1990] 1 CLJ 886